

REMARKS

In response to the non-final office action of February 13, 2009, applicants ask that all claims be allowed in view of the following remarks. Claims 1-23 are now pending with claims 1 and 7 being independent. Claims 7-14 has been amended to recite that the “receiving,” “sending,” and “selecting” are performed by an ad server computer, and claims 15-23 have been added. Support for the amendments can be found, for example, at paragraphs 20, 29, 31, and 32 of the specification. No new matter has been introduced.

35 USC § 101

Claims 7-14 were rejected as being directed to non-statutory subject matter. Reconsideration and withdrawal of this rejection are requested at least because claim 7, as amended, now recites that the method is implemented by one or more computers, and that the “receiving,” “sending,” and “selecting” are performed by an ad server computer.

35 USC § 102

Claims 7, 8, and 10-14 were rejected as being anticipated by United States Patent No. 5,794,210 (“Goldhaber”). Reconsideration and withdrawal of the rejection are requested because Goldhaber fails to disclose or suggest “receiving, at an ad server computer, a plurality of advertisement requests from a user node, each advertisement request based upon a link sent from an affiliate node to the user node in response to a content request sent from the user node to the affiliate node,” as now recited in claim 7. With respect to this feature, the action cited Fig. 11 of Goldhaber, which shows display of a “brief summary of the ads on the consumer’s computer display.” *See* Goldhaber at col. 16, lines 1-2. However, Goldhaber fails to disclose an “affiliate node” that receives a request for content and provides a link to an ad server in response to the request for content. Specifically, Goldhaber discloses that the links are both presented by the attention brokerage server 106, and linked to the attention brokerage server 106. *See* col. 16, lines 18-41, where Goldhaber describes the attention brokerage server 106 sending the thumbnails and receiving an indication of interaction from the consumer’s computer. Thus, the

content of Goldhaber cited as the “links” is sent by the server, and are not sent to the user by an affiliate node that provides content.

In fact, applicants note that Goldhaber teaches removing the “affiliate node,” which is analogous to the content provider, completely from the advertisement delivery process. For example, Goldhaber describes that content, called “positively priced information,” such as television programs, music, magazines, and newspaper articles, can be sold directly to consumers, instead of being provided for “free” and supported by advertisers. The advertisements of Goldhaber are delivered directly to users of the system separately from the content, and the users are compensated for receiving the advertisements. The received compensation is used to offset the newly imposed cost for historically “free” content, such as broadcast television programs, which are traditionally subsidized by advertisements. Thus, the advertisements of Goldhaber are expressly not provided as “a link sent from an affiliate node in response to a content request sent from the user node to the affiliate node” because Goldhaber teaches requesting and delivering content separately from advertisements, and delivering advertisements separately from content.

Thus, the system of Goldhaber is unrelated to the method recited in claim 7, and does not disclose or suggest an advertisement request link sent to a user by an affiliate content provider in response to a request for content from the affiliate by the user. For at least these reasons, the anticipation rejection of claim 7 and its dependent claims 8 and 10-14 should be withdrawn.

35 USC § 103

Claims 1-6, and 9 were rejected as being unpatentable over Goldhaber. Reconsideration and withdrawal of this rejection are requested for at least the following reasons.

Reporting ad placement information

The action acknowledged that Goldhaber fails to disclose “a memory storing instructions for a report process adapted to be executed by said processor to generate a report about the placement of advertisements,” as recited in claim 1. Nevertheless, the action stated that it would have been obvious to provide reports about advertisement placement because Goldhaber

discusses how advertisers will know that they are getting their money's worth, and because advertisers are billed for the number of "cyber coins" activated by users.

As to the question of advertisers determining that they are getting their money's worth, Goldhaber fails to disclose or suggest that advertisers will make this determination based on a report about advertising placement. Instead, Goldhaber discloses that the system includes built-in mechanisms for determining whether users interact sufficiently with the advertisements in order to ensure that the advertisers are getting their money's worth. *See* col. 17, lines 33-53 which describes an implementation of the "built-in system of incentives and checks" that solve the cited problem, as discussed at col. 5, lines 59-63. Thus, the cited discussion of Goldhaber regarding advertiser evaluation of the value of the system does not disclose or suggest "a memory storing instructions for a report process adapted to be executed by said processor to generate a report about the placement of advertisements," as recited in claim 1.

Regarding billing, the action did not cite the portion of Goldhaber that was believed to disclose generating a report in the advertiser billing context. Applicants request specific citation to the portion of Goldhaber believed to disclose the claimed feature, such that a detailed response is possible. However, as a general matter, applicants note that a bill does not necessarily provide a report of anything. For example, where a bill is not itemized, particularly in circumstances where multiple products and/or services are included on the bill, the bill cannot reasonably be considered a report of goods and services purchased. Furthermore, a "billing" process need not include any notification or provision of any information. For example, a customer may be billed by debiting an account of the customer, whereby no information regarding purchases is "reported" to the customer.

Selecting an advertisement based on a link sent from an affiliate node

Claim 1 also recites "a memory storing instructions for an advertisement server process adapted to be executed by said processor to select, in response to an advertisement request, an advertisement based upon said information collected by said derive profile process stored in said database, wherein said advertisement request is based upon a link sent from an affiliate node to said user node in response to a content request sent from said user node to said affiliate node." As discussed above, Goldhaber discloses a system in which advertisements are distributed

separately from content. Accordingly, for reasons similar to those set forth above with respect to claim 7, Goldhaber fails to disclose or suggest this feature of claim 1. Additionally, it would not have been obvious to modify the attention brokerage system of Goldhaber to select advertisements based on a link from an affiliate node sent in response to a request for content because Goldhaber expressly teaches away from such an integrated system of advertisement distribution.

For at least these reasons, the rejection of claim 1, and its dependent claims 2-6, should be withdrawn. Claim 9 recites "generating a report about a placement of advertisements." Accordingly, the rejection of claim 9 should be withdrawn for similar reasons as those set forth with respect to claim 1.

Payment in the amount of \$156 for excess claim fees is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

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